

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**Criminal Application No. 3883/2006 in**  
**Criminal Appeal No.104 of 2005**

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 Office Notes, Office Memoranda of Coram, :  
 Appearances, Court's orders or directions : Court's or Judge's orders  
 and Registrar's orders.  
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Mr. S.D. Chopde, Advocate for the Appellants.  
 Mrs. K. S. Joshi, APP for the respondent/State.

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**CORAM : K. J. ROHEE & C. L. PANGARKAR, JJ**  
**DATED : DECEMBER 8, 2006**

Heard.

2. Appellant no.1 Mansaram is the husband of appellant no.2 Annapurnabai. They are having two sons Gopal and Shantaram. Deceased Dnyaneshwari was the wife of Gopal and Vitthal , aged about 1 ½ years, was the son of Gopal and Dnyaneshwari. All of them were residing together.

3. On 10.8.2003 around 12.30 in the noon, Dnyaneshwari and Vitthal were burnt in the house. When PW3 Ramesh Tathod , Police Patil, learnt about it, he immediately returned from the field and visited the house of the appellants. He found Dnyaneshwari in a burnt condition and Vitthal dead. He also found that there was nobody at home. Thereafter he informed the police by phone.

4. It seems that immediately the Police

swung into action, Dnyaneshwari was removed to General Hospital, Akola. Immediately on her admission to the hospital, her dying declaration was recorded by PW1 Ramesh Chandanbarve, the Executive Magistrate at 8.05 p.m. wherein she disclosed that the appellants and her husband Gopal and his brother Shantaram tried to hang her. When that attempt failed, they threw kerosene on her and her son Vitthal and burnt them. It seems that the mother, maternal uncle and other relatives of Dnyaneshwari reached to the hospital after the dying declaration was recorded. Dnyaneshwari also disclosed the incident to her mother, maternal uncle and other close relatives. Dnyaneshwari succumbed to the burn injuries on 15.8.2003.

5. It was vehemently urged by the learned counsel for the appellants that there is delay in lodging F. I. R. inasmuch as crime was registered on the next day i.e. on 11.8.2003 though the Police Patil had informed the police immediately after the incident. It was also urged by the learned counsel for the appellants that it has come in the evidence that Dnyaneshwari was not in a position to talk and that it appears highly improbable that the Executive Magistrate would record her dying declaration. He further submitted that there is no material to convict the appellants for the offences with which they have been convicted.

6. We are not at all impressed by these

submissions. We find that there is strong prima facie case in respect of the conviction of the appellants. The formality of registration of offence might have taken some time but it won't affect the veracity of the gruesome incident in question. It may be noted that the husband of Dnyaneshwari and his brother are still absconding. We are, therefore, not inclined to suspend the sentence and to release the appellants on bail. The application is, therefore, rejected.

**JUDGE**

**JUDGE**

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